

Appl. No. 10/719,258
Docket No. 9433
Amdt. dated 26 July 2006
Reply to Office Action mailed on 10 May 2006
Customer No. 27752

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REMARKS

Claim Status

Claims 1 and 4-11 are pending in the present application. No additional claims fee is believed to be due.

Claim 1 has been amended to add the words, "said tampon having a vaginally insertable self-sustaining shape..."

Claims 2 and 3 have been cancelled without prejudice.

It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

Rejection Under 35 U.S.C. §102 Over Dulle (U.S. 3,834,389)

Claims 1, 4, 9 and 10 have been rejected under 35 U.S.C. §102(b) as being anticipated by Dulle.

With respect to the novelty of claims 1, 4, 9 and 10: Applicants respectfully traverse the rejection as Dulle does not disclose or teach a tampon for feminine hygiene comprising an insertion end, a withdrawal end, a longitudinal axis, and an outer surface; said tampon being comprised of compressed fibrous material; said tampon having a vaginally insertable self-sustaining shape; wherein said outer surface of said tampon comprises a plurality of raised portions; each of said raised portions comprising a first width dimension x , a first width dimension x^1 and a second width dimension y , and a second width dimension y^1 ; wherein the insertion end comprises the first width dimension x and a second width dimension y and the withdrawal end comprises a first width dimension x^1 and a second width dimension y^1 ; and wherein said first width dimension x is greater than said second width dimension y .

The tampon of the present invention has a vaginally insertable self-sustaining shape, which is defined in the specification as, "when a tampon pledget has been compressed and/or shaped such that it assumes a general shape and size, which is

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vaginally insertable, absent external forces." (Page 4, Lines 29-31) In contrast, the tampon of Dulle does not have a vaginally insertable self-sustaining shape, but rather is only capable of vaginal insertion after being compacted into the outer tube of an applicator. As stated in Column 3, Lines 29-37 of Dulle, "The core is dry expanding and necessarily so when the tampon is resiliently compacted. Dry expanding as used herein is intended to mean expandable from a compacted condition, e.g., the condition of a tampon of this invention as when within a telescoping tubular inserter such as is shown in FIG. 12, without relying on the presence of fluid to release any set which may have taken place within the absorbent body while it was compacted." This is also demonstrated in the disclosure of Dulle at Column 4, Lines 6-17, "To put the tampon of FIG. 1 in a configuration wherein it can be inserted into a vagina, the absorbent materials are radially compacted, i.e., gathered upwardly and inwardly such as is shown in FIG. 2...After the tampon is released from the inserter it dry expands" Therefore the tampon of Dulle is relying on the external compacting force provided by the inner wall of the outer tube to allow it to be vaginally inserted.

Accordingly, Applicant respectfully submits that claims 1, 4, 9 and 10 are novel over Dulle.

Rejection Under 35 U.S.C. §103(a) Over Dulle (U.S. 3,834,389) in view of Rabell (U.S. 2,499,414)

Claim 11 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Dulle in view of Rabell.

With respect to claim 11 and obviousness: Applicants respectfully traverse the rejection as Dulle does not disclose or suggest a tampon for feminine hygiene comprising an insertion end, a withdrawal end, a longitudinal axis, and an outer surface; said tampon being comprised of compressed fibrous material; said tampon having a vaginally insertable self-sustaining shape; wherein said outer surface of said tampon comprises a plurality of raised portions; each of said raised portions comprising a first width dimension x , a first width dimension x^1 and a second width dimension y , and a second

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width dimension y^1 ; wherein the insertion end comprises the first width dimension x and a second width dimension y and the withdrawal end comprises a first width dimension x^1 and a second width dimension y^1 ; and wherein said first width dimension x is greater than said second width dimension y .

The tampon of the present invention has a vaginally insertable self-sustaining shape, which is defined in the specification as, "when a tampon pledget has been compressed and/or shaped such that it assumes a general shape and size, which is vaginally insertable, absent external forces." (Page 4, Lines 29-31) In contrast, the tampon of Dulle does not have a vaginally insertable self-sustaining shape, but rather is only capable of vaginal insertion after being compacted into the outer tube of an applicator. As stated in Column 3, Lines 29-37 of Dulle, "The core is dry expanding and necessarily so when the tampon is resiliently compacted. Dry expanding as used herein is intended to mean expandable from a compacted condition, e.g., the condition of a tampon of this invention as when within a telescoping tubular inserter such as is shown in FIG. 12, without relying on the presence of fluid to release any set which may have taken place within the absorbent body while it was compacted." Therefore the tampon of Dulle is relying on the external compacting force provided by the inner wall of the outer tube to allow it to be vaginally inserted.

Further, the tampon of Dulle cannot have a finger indent as a finger indent is used to help the user digitally insert a tampon, i.e. a tampon that is not contained in an applicator. (Spec. Page 9, Lines 12-14) As stated above and shown in FIG. 1 of Dulle the tampon is a flat layer of material which is not self-sustaining and therefore when not contained in the applicator is not capable of being vaginally inserted. This is also demonstrated in the disclosure of Dulle at Column 4, Lines 6-9, "To put the tampon of FIG. 1 in a configuration wherein it can be inserted into a vagina, the absorbent materials are radially compacted, i.e., gathered upwardly and inwardly such as is shown in FIG. 2." Therefore, there can be no suggestion to add a finger indent to the tampon Dulle, when finger indents are used to aid the digital insertion of self-sustained vaginally insertable tampons and the tampon of Dulle is neither self-sustained nor digitally insertable.

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For the reasons set forth above Applicant respectfully submits that the Office Action does not make out a prima facie case of obviousness for claim 11.

Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejections under 35 U.S.C. §102 and §103. Early and favorable action in the case is respectfully requested.

This response represents an earnest effort to place the application in proper form and to distinguish the invention as now claimed from the applied references. In view of the foregoing, reconsideration of this application, entry of the amendments presented herein, and allowance of Claims 1 and 4-11 is respectfully requested.

Respectfully submitted,

THE PROCTER & GAMBLE COMPANY

By 
Signature

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